

REFERENCE TITLE: ASRS; payroll deduction agreements; transfers

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1273**

Introduced by  
Senator Huppenthal

AN ACT

AMENDING SECTION 38-747, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-747, Arizona Revised Statutes, is amended to  
3 read:

4 38-747. Purchase of credited service; payment; limitations;  
5 definitions

6 A. A member who purchases credited service pursuant to section 38-738,  
7 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

8 1. Make payments directly to ASRS as provided in subsection H of this  
9 section.

10 2. Elect to have the member's employer make payments as provided in  
11 subsection B of this section.

12 B. A member may elect to have the member's employer make payments for  
13 all or any portion of the amounts payable for the member's purchase of  
14 credited service pursuant to the sections prescribed in subsection A of this  
15 section through a salary reduction program in accordance with the following:

16 1. The amounts paid pursuant to a salary reduction program are in lieu  
17 of contributions by the electing member. The electing member's salary or  
18 other compensation shall be reduced by the amount paid by the employer  
19 pursuant to this subsection. For the purposes of this paragraph, "other  
20 compensation" includes a member's termination pay.

21 2. The member shall make an election pursuant to this subsection at  
22 any time on or after the date the member elects to purchase credited service  
23 pursuant to the sections prescribed in subsection A of this section and  
24 before the member's termination of employment. The election shall specify  
25 the number of payroll periods that deductions will be made from the member's  
26 compensation and the dollar amount of deductions for each payroll period  
27 during the specified number of payroll periods. In the case of an election  
28 to utilize all or any part of the member's termination pay to purchase  
29 credited service, the member's election shall be made at least three full  
30 calendar months before the date of the member's termination of employment and  
31 entitlement to receive the termination pay. After an election is made  
32 pursuant to this subsection, the election is binding on and irrevocable for  
33 the member and the member's employer during the member's remaining period of  
34 current employment. After a member makes an irrevocable election pursuant to  
35 this subsection, the member does not have the option of choosing to receive  
36 the contributed amounts directly. For the purposes of this paragraph,  
37 "termination pay" means any lump sum that is paid at the member's termination  
38 of employment for accrued vacation, sick leave or overtime pay.

39 3. A member who makes an irrevocable election pursuant to this  
40 subsection to have the member's employer make payments for less than all of  
41 the amounts payable for the member's purchase of credited service may  
42 irrevocably elect to have the member's employer make payments for all or any  
43 portion of the remaining amounts payable for the member's purchase of  
44 credited service. A member who makes one or more irrevocable elections  
45 pursuant to this subsection may also make other contributions to ASRS

1 pursuant to subsection H of this section to the extent of any remaining  
2 amounts payable for which the member has not made an election pursuant to  
3 this subsection. An additional election or contribution with respect to a  
4 portion of the amounts payable for the member's purchase of credited service  
5 does not alter, amend or revoke an irrevocable election already made pursuant  
6 to this subsection for any other portion of the amounts payable for the  
7 member's purchase of credited service.

8 4. If on termination of the member's employment with an ASRS employer  
9 all amounts have not been paid to ASRS pursuant to the member's irrevocable  
10 election pursuant to this subsection, the member may pay ASRS, within thirty  
11 days after the member's termination of employment and subject to other  
12 limitations prescribed in this section, all or any portion of the unpaid  
13 amounts as provided in subsection H of this section. These payments do not  
14 alter, amend or revoke any irrevocable election already made pursuant to this  
15 subsection with respect to any amount to be paid by the member's employer  
16 while the member is employed by the member's employer.

17 5. Amounts paid by an employer pursuant to this subsection shall be  
18 treated as employer contributions for the purpose of determining tax  
19 treatment under the internal revenue code. The effective date of employer  
20 payments pursuant to this subsection shall not be before the date ASRS  
21 receives notification from the United States internal revenue service that  
22 pursuant to section 414(h)(2) of the internal revenue code the amounts paid  
23 by an employer pursuant to this subsection will not be included in the  
24 member's gross income for income tax purposes until those amounts are  
25 distributed by refund or retirement benefit payments.

26 6. Unless otherwise provided, member contributions paid by an employer  
27 pursuant to this subsection are treated for all other purposes under ASRS in  
28 the same manner and to the same extent as member contributions that are not  
29 paid by an employer pursuant to this subsection. ASRS shall not grant  
30 credited service for contributions made pursuant to this subsection until  
31 those contributions are received by ASRS. ASRS may assess interest or  
32 administrative charges attributable to any salary reduction election made  
33 pursuant to this subsection. The interest or administrative charges shall be  
34 added to the amount of contributions that is made to ASRS by the member each  
35 payroll period and that is paid by the member's employer. The interest or  
36 administrative charges shall not be treated as member contributions for any  
37 purposes under this article and a member or a member's beneficiary does not  
38 have a right to the return of the interest or administrative charges pursuant  
39 to any other provision of this article. Interest assessed pursuant to this  
40 subsection shall be at the rate specified by the board pursuant to section  
41 38-711, paragraph 2.

42 7. If a member transfers employment from one participating employer  
43 with which the member has made an irrevocable election pursuant to this  
44 subsection to another participating employer, the member and the successor

1 participating employer shall complete the terms of the irrevocable election  
2 that the member made with the original participating employer.

3 8. IF AN EMPLOYEE HAS MADE AN IRREVOCABLE ELECTION PURSUANT TO THIS  
4 SUBSECTION AND TRANSFERS PARTICIPATION TO ANOTHER DEFINED BENEFIT RETIREMENT  
5 SYSTEM OR PLAN OF THIS STATE WITHOUT A TERMINATION OF EMPLOYMENT, WITHIN  
6 NINETY DAYS OF THE DATE OF THE TRANSFER ASRS SHALL TRANSFER TO THE SUBSEQUENT  
7 DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN THE TOTAL OF ANY INTEREST AND  
8 PRINCIPAL PAID BY THE TRANSFERRED MEMBER FOR THE PURCHASE OF CREDITED  
9 SERVICE. IF THE ASSETS TRANSFERRED FROM ASRS DO NOT FULLY COVER THE COST OF  
10 THE BENEFITS ACCRUED RELATIVE TO THE CREDITED SERVICE AS CALCULATED PURSUANT  
11 TO SECTION 38-922, SUBSECTION B, PARAGRAPH 2, THE EMPLOYEE SHALL ELECT EITHER  
12 TO PAY THE DIFFERENCE OR TO ACCEPT A REDUCED AMOUNT OF SERVICE CREDITS. IF  
13 THE EMPLOYEE ELECTS TO PAY THE DIFFERENCE, THE AMOUNT PAID SHALL BE ADDED TO  
14 THE EMPLOYEE'S ACCUMULATED CONTRIBUTION ACCOUNT BALANCE. IF THE EMPLOYEE  
15 ELECTS TO ACCEPT A REDUCED AMOUNT OF SERVICE CREDITS, THE AMOUNT OF SERVICE  
16 CREDITS TRANSFERRED SHALL BE EQUAL TO THE AMOUNT OF SERVICE CREDITS PURCHASED  
17 MULTIPLIED BY THE RATIO OF THE AMOUNT OF ASSETS TRANSFERRED TO THE AMOUNT  
18 CALCULATED UNDER SECTION 38-922, SUBSECTION B, PARAGRAPH 2. THE TRANSFERRED  
19 MEMBER AND THE EMPLOYER SHALL COMPLETE THE TERMS OF THE IRREVOCABLE ELECTION  
20 BY MAKING PAYMENTS TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR  
21 PLAN.

22 C. A member who elects before July 1, 1999 to receive retirement  
23 benefits based on section 38-771, subsection C, paragraph 2 or a member who  
24 elects to make contributions to ASRS pursuant to section 38-771.01,  
25 subsection F, paragraph 4 shall either make the member's additional  
26 contributions required pursuant to section 38-771, subsection E or allowed  
27 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as  
28 provided in subsection H of this section or shall elect to have the member's  
29 employer make payments for those additional contributions as provided in  
30 subsection D of this section. A member who elected to be covered or who was  
31 deemed to be covered by section 38-771 on or before December 31, 1995 or who  
32 elects to make member contributions pursuant to section 38-771.01, subsection  
33 F, paragraph 3 is deemed to have made an irrevocable election pursuant to  
34 subsection D of this section to make the member's contributions to ASRS that  
35 are required by section 38-771, subsection D or allowed by section 38-771.01,  
36 subsection F, paragraph 3.

37 D. Any member contributions that are required by section 38-771,  
38 subsection D or that are allowed pursuant to section 38-771.01, subsection F,  
39 paragraph 3 are deemed to be made by the member to ASRS through a salary  
40 reduction program in accordance with the following:

41 1. A member may make member contributions pursuant to section 38-771,  
42 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary  
43 reduction program elected pursuant to this subsection. If a member makes an  
44 irrevocable election pursuant to this subsection before July 1, 1999 to have  
45 the member's employer make payments for additional contributions pursuant to

1 section 38-771, subsection E, the election continues in effect from and after  
2 June 30, 1999 and shall not be revoked, amended or altered by any election  
3 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant  
4 to a salary reduction program are in lieu of contributions by the electing  
5 member. The member's salary or other compensation shall be reduced by the  
6 amount paid by the employer pursuant to this subsection.

7 2. Before a member's termination of employment, the member may make an  
8 election pursuant to this subsection at any time after the date the member  
9 elects to receive retirement benefits based on section 38-771, subsection C,  
10 paragraph 2 but before July 1, 1999 or at any time after the member elects to  
11 make member contributions pursuant to section 38-771.01, subsection F,  
12 paragraph 4. The election shall specify the number of payroll periods that  
13 deductions will be made from the member's compensation and the dollar amount  
14 of deductions for each payroll period during the specified number of payroll  
15 periods. After an election is made pursuant to this subsection, the election  
16 is binding on and irrevocable for the member and the member's employer during  
17 the member's remaining period of employment.

18 3. After a member makes or is deemed to have made an irrevocable  
19 election pursuant to this subsection, the member does not have the option of  
20 choosing to receive the contributed amounts directly. A member who makes an  
21 irrevocable election pursuant to this subsection to have the member's  
22 employer make payments for less than all of the amounts payable for the  
23 member's additional contributions allowed by section 38-771.01, subsection F,  
24 paragraph 4 may irrevocably elect to have the member's employer make payments  
25 for all or any portion of the remaining amounts payable for the member's  
26 additional contributions. A member who makes one or more irrevocable  
27 elections pursuant to this subsection may also make other contributions to  
28 ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to  
29 subsection H of this section to the extent of any remaining amounts payable  
30 for which the member has not made an election pursuant to this subsection.  
31 An additional election or contribution with respect to a portion of the  
32 amounts payable for the member's additional contributions pursuant to section  
33 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an  
34 irrevocable election already made pursuant to this subsection for any other  
35 portion of the amounts payable for the member's additional contributions  
36 allowed by section 38-771.01, subsection F, paragraph 4.

37 4. If on termination of the member's employment all amounts have not  
38 been paid to ASRS pursuant to the member's irrevocable election pursuant to  
39 this subsection, the member may pay ASRS, within thirty days after the  
40 member's termination of employment and subject to other limitations  
41 prescribed in this section, all or any portion of the unpaid amounts as  
42 provided in subsection H of this section. These payments do not alter, amend  
43 or revoke any irrevocable election already made pursuant to this subsection  
44 with respect to any amount to be paid by the member's employer while the  
45 member is employed by the member's employer.

1           5. Amounts paid by an employer pursuant to this subsection shall be  
2 treated as employer contributions for the purpose of determining tax  
3 treatment under the internal revenue code. The effective date of employer  
4 payments pursuant to this subsection shall not be before the date ASRS  
5 receives notification from the United States internal revenue service that  
6 pursuant to section 414(h)(2) of the internal revenue code the amounts paid  
7 by an employer pursuant to this subsection will not be included in the  
8 member's gross income for income tax purposes until those amounts are  
9 distributed by refund or retirement benefit payments.

10           6. Unless otherwise provided, member contributions paid by an employer  
11 pursuant to this subsection are treated for all other purposes under ASRS in  
12 the same manner and to the same extent as member contributions that are not  
13 paid by an employer pursuant to this subsection.

14           7. If a member transfers employment from one participating employer  
15 with which the member has made an irrevocable election pursuant to this  
16 subsection to another participating employer, the member and the successor  
17 participating employer shall complete the terms of the irrevocable election  
18 that the member made with the original participating employer.

19           E. The following limits apply to contributions to ASRS:

20           1. Except to the extent paragraphs 2 and 3 of this subsection apply to  
21 certain contributions made by a member to ASRS and to the extent permitted  
22 under section 414(v) of the internal revenue code, if applicable, in any one  
23 limitation year, the annual additions contributed or allocated to ASRS for or  
24 on behalf of a member shall not exceed the lesser of either:

25           (a) Forty thousand dollars or a larger amount that is prescribed by  
26 the board and that is due to any cost of living adjustment announced by the  
27 United States secretary of the treasury pursuant to section 415(d) of the  
28 internal revenue code. The board shall increase the amount prescribed by  
29 this subdivision as of the effective date of the increase announced by the  
30 United States secretary of the treasury.

31           (b) One hundred per cent of the member's compensation for the  
32 limitation year. The compensation limit prescribed in this subdivision does  
33 not apply to any contribution to ASRS for medical benefits after a member's  
34 separation from service, within the meaning prescribed in section 401(h) or  
35 419A(f)(2) of the internal revenue code, that is otherwise treated as an  
36 annual addition.

37           2. Unless paragraph 4 of this subsection applies, for plan years  
38 beginning on or after July 1, 1998, in any one limitation year, the annual  
39 additions credited to ASRS for or on behalf of a member who makes  
40 contributions to ASRS to purchase credited service pursuant to section  
41 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable  
42 election has not been made pursuant to subsection B of this section shall not  
43 exceed the greater of either:

44           (a) The requirements of section 38-769. For the purposes of applying  
45 the limits prescribed in section 38-769 under this subdivision, the accrued

1 benefit derived from the contributions shall be treated as an annual benefit  
2 and the reduced limit for certain early retirement in section 38-769,  
3 subsection C, paragraph 2 does not apply.

4 (b) Except as provided in paragraph 3 of this subsection, the  
5 requirements of paragraph 1 of this subsection. The contributions shall be  
6 treated as annual additions and any of the member's other annual additions  
7 for the limitation year shall be taken into account. For the purposes of  
8 applying the requirements of paragraph 1 of this subsection under this  
9 subdivision, the percentage of compensation limit in paragraph 1, subdivision  
10 (b) of this paragraph does not apply.

11 3. For plan years beginning on or after July 1, 1998, the requirements  
12 of paragraph 1 of this subsection shall not be applied to reduce the amount  
13 of credited service that may be purchased by an eligible member pursuant to  
14 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the  
15 amount of credited service allowed to be purchased pursuant to those sections  
16 on August 5, 1997 without the application of any of the limits prescribed in  
17 this section or section 415 of the internal revenue code. For the purposes  
18 of this paragraph, "eligible member" means a person who first becomes a  
19 member of ASRS before July 1, 1999.

20 4. Member contributions to ASRS to purchase credited service pursuant  
21 to section 38-743, 38-744 or 38-922 shall not be made by a member if  
22 recognition of that service would cause a member to receive a retirement  
23 benefit for the same service from ASRS and one or more other retirement  
24 plans. This paragraph does not apply to either of the following:

25 (a) Contributions made by an eligible member as defined in paragraph 3  
26 of this subsection, except that any service purchase by an eligible member is  
27 subject to any other limitations, including limitations on duplicative  
28 service purchase, otherwise provided in this article.

29 (b) Any member contributions with respect to which an irrevocable  
30 election has been made by a member pursuant to subsection B of this section,  
31 except that the service purchase is subject to any other limitations,  
32 including limitations on duplicative service purchase, otherwise provided in  
33 this article.

34 F. If a member's contributions are subject to the limitations of  
35 subsection E of this section, the contributions shall be treated as being  
36 made to a separate defined contribution plan. If the member's contributions  
37 exceed the limits prescribed in subsection E of this section when taking into  
38 account other member and employer contributions to ASRS on behalf of the  
39 member for the limitation year, the amount to be paid by the member shall be  
40 reduced to not exceed the limits prescribed in subsection E of this section  
41 and the remaining amount shall be carried forward to the next limitation  
42 year, unless the limits are exceeded in the next limitation year. If the  
43 limits are exceeded in the next limitation year, the procedure prescribed by  
44 this subsection shall be repeated until all payments have been made.

1 G. If, after the application of subsection F of this section, the  
2 annual additions on behalf of a member exceed the limitations prescribed in  
3 subsection E of this section, ASRS shall dispose of excess amounts by either  
4 of the following:

5 1. Returning to the member any contributions that are made by the  
6 member and that are nondeductible under the internal revenue code.

7 2. Holding the amounts in a suspense account established pursuant to  
8 subsection L of this section and allocating the amounts as either member or  
9 employer contributions for the benefit of the member in the next limitation  
10 year and before any further member or employer contributions are made that  
11 would constitute annual additions made to a defined contribution plan  
12 pursuant to section 415 of the internal revenue code. ASRS shall allocate  
13 contributions as prescribed in this section, and the amount allocated shall  
14 reduce the amount of the member or employer contributions for the limitation  
15 year in which the allocation is made.

16 H. To the extent that a payment under this subsection does not alter,  
17 amend or revoke any one or more currently effective irrevocable elections  
18 made by the member pursuant to subsection B or D of this section, the board  
19 may accept contributions made pursuant to section 38-771 or member  
20 contributions for the payment for credited service purchases pursuant to  
21 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions  
22 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in  
23 part, by any one or a combination of the following methods:

24 1. In lump sum payments.

25 2. Subject to the limitations prescribed in sections 401(a)(31) and  
26 402(c) of the internal revenue code and subsection J of this section,  
27 accepting a direct rollover of or a contribution by a member of an eligible  
28 rollover distribution from one or more:

29 (a) Retirement programs that are qualified under section 401(a) or  
30 403(a) of the internal revenue code.

31 (b) Annuity contracts described in section 403(b) of the internal  
32 revenue code.

33 (c) Eligible deferred compensation plans described in section 457(b)  
34 of the internal revenue code that are maintained by a state, a political  
35 subdivision of a state or any agency or instrumentality of a state or a  
36 political subdivision of a state.

37 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)  
38 of the internal revenue code, accepting from a member a rollover contribution  
39 of that portion of a distribution from an individual retirement account or  
40 individual retirement annuity described in section 408(a) or 408(b) of the  
41 internal revenue code that is eligible to be rolled over and would otherwise  
42 be includable as gross income.

43 4. Providing by rule that the contributions may be made in installment  
44 payments over a period of time.

1 I. To the extent that a payment under this subsection does not alter,  
2 amend or revoke any one or more currently effective irrevocable elections  
3 made by a member pursuant to subsection B or D of this section, the board may  
4 accept a direct trustee-to-trustee transfer from retirement programs that are  
5 qualified under section 401(a) or 403(a) of the internal revenue code, an  
6 annuity contract described in section 403(b) of the internal revenue code or  
7 an eligible deferred compensation plan described in section 457(b) of the  
8 internal revenue code for the payment for credited service purchases  
9 pursuant to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct  
10 trustee-to-trustee transfer is from a retirement program that is qualified  
11 under section 401(a) of the internal revenue code and that includes a cash or  
12 deferred arrangement described in section 401(k) of the internal revenue  
13 code, the member on whose behalf the transfer was made is not eligible to  
14 retire under section 38-764, subsection I before the date the member attains  
15 fifty-nine and one-half years of age.

16 J. ASRS shall separately account for all amounts rolled over or  
17 directly transferred to ASRS.

18 K. ASRS shall not grant credited service under section 38-738, 38-742,  
19 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of  
20 this section until the contributions are received by ASRS. ASRS may assess  
21 interest or administrative charges attributable to any installment payment  
22 made pursuant to subsection H, paragraph 4 of this section to purchase  
23 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or  
24 38-922. The interest or administrative charges shall be added to the amount  
25 of contributions made to ASRS by the member. The interest or administrative  
26 charges shall not be treated as member contributions for any purposes under  
27 this article, and a member or a member's beneficiary does not have a right to  
28 the return of the interest or administrative charges pursuant to any other  
29 provision of this article. Interest assessed pursuant to this subsection  
30 shall be at the rate specified by the board pursuant to section 38-711,  
31 paragraph 2.

32 L. ASRS shall establish a suspense account that conforms with 26 Code  
33 of Federal Regulations section 1.415-6(b)(6) regarding excess annual  
34 additions.

35 M. If the member retires before all payments are made pursuant to this  
36 section, ASRS shall calculate the member's benefits based only on the  
37 payments actually made.

38 N. On satisfaction of the requirements of this section, ASRS shall  
39 adjust the member's credited service history and add any additional service  
40 credits acquired.

41 O. Annual additions on behalf of a member in any limitation year shall  
42 be the sum of:

43 1. The amount of the member contributions made to ASRS to purchase  
44 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922

1 and with respect to which an irrevocable election made pursuant to subsection  
2 B of this section is not in effect.

3 2. The amount of member and employer contributions made to ASRS on  
4 behalf of a member who elected or was deemed to have elected to receive  
5 retirement benefits pursuant to section 38-771 or who is entitled to benefits  
6 pursuant to section 38-771.01, except that, other than as provided in  
7 subsection P of this section, corrective contributions shall be considered  
8 annual additions for the limitation years to which the contributions relate  
9 and interest and gains shall not be considered as annual additions for the  
10 purpose of any limitation prescribed in this article or in section 415 of the  
11 internal revenue code. If the corrective contributions exceed the limit on  
12 annual additions for a limitation year prior to the limitation year in which  
13 the corrective contributions are contributed by the employer to ASRS, the  
14 retirement benefit attributable to the excess corrective contributions shall  
15 be treated as an excess benefit and shall be payable to the member as any  
16 other excess benefit is payable pursuant to section 38-774, and the employer  
17 shall pay the excess corrective contributions to the separate unfunded  
18 governmental excess benefit arrangement administered by the board pursuant to  
19 section 38-774.

20 3. Any member or employer contributions made to ASRS or any other plan  
21 that are treated as being made to a defined contribution plan maintained by  
22 an employer of the member.

23 4. Any forfeitures, including any income attributable to forfeitures,  
24 allocated for or on behalf of a member of ASRS or any other plan that are  
25 treated as being allocated under a defined contribution plan maintained by an  
26 employer of the member.

27 P. To the extent any portion of the subject benefits, if treated as  
28 subject to the benefit limitations of section 415(b) of the internal revenue  
29 code, exceed the applicable limitation on benefits pursuant to section 38-769  
30 for the form of distribution, a percentage of corrective contributions and  
31 interest and gains shall be treated as annual additions for the limitation  
32 year in which contributed by the employer to ASRS. This percentage of  
33 corrective contributions and interest and gains shall be equal to the  
34 percentage determined by dividing the subject benefits that exceed the  
35 limitation on benefits pursuant to section 38-769 by the subject benefits.  
36 If the corrective contributions and interest and gains that are treated as  
37 annual additions for the limitation year in which the corrective  
38 contributions and interest and gains are contributed by the employer to ASRS  
39 exceed the limit on annual additions for the limitation year, the retirement  
40 benefit attributable to the excess shall be treated as an excess benefit and  
41 shall be payable to the member as any other excess benefit is payable  
42 pursuant to section 38-774, and the employer shall pay the excess to the  
43 separate unfunded governmental excess benefit arrangement administered by the  
44 board pursuant to section 38-774.

1 Q. Subsection 0 of this section shall be construed and interpreted in  
2 accordance with 26 Code of Federal Regulations section 1.415-6 to the extent  
3 that section is applicable.

4 R. For the purposes of this section:

5 1. "Compensation" has the same meaning prescribed in section 38-769.

6 2. "Corrective contributions" means any contributions that are paid by  
7 an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that  
8 are attributable to employer contributions that should have been made for  
9 prior limitation years.

10 3. "Defined contribution plan" has the same meaning prescribed in  
11 section 38-769.

12 4. "Interest and gains" means employer contributions to ASRS pursuant  
13 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are  
14 attributable to earnings and supplemental credits that would have been earned  
15 or added to a member's annuity payment.

16 5. "Limitation year" has the same meaning prescribed in section  
17 38-769.

18 6. "Participating employer" means an employer that participates in  
19 ASRS.

20 7. "Subject benefits" means the retirement benefit received by a  
21 member pursuant to section 38-771.01 minus the sum of the portion of such  
22 retirement benefit attributable to contributions that were made by or on  
23 behalf of the member to the defined contribution program administered by ASRS  
24 for periods before July 1, 1981 and contributions that were made by the  
25 member after June 30, 1981 and that were not picked up as provided in section  
26 414(h)(2) of the internal revenue code.

27 Sec. 2. Prior transfers of employees with existing payroll  
28 deduction agreements; election

29 A. An employee who, before the effective date of this act, made an  
30 irrevocable election pursuant to section 38-747, subsection B, Arizona  
31 Revised Statutes, and transfers participation to another defined benefit  
32 retirement system or plan of this state without a termination of employment  
33 may irrevocably elect to have the employee's service credits transferred  
34 pursuant to section 38-747, subsection B, paragraph 8, Arizona Revised  
35 Statutes, as amended by this act.

36 B. An employee must make the election allowed pursuant to subsection A  
37 of this section within one year after the date of the employee's transfer to  
38 the subsequent defined benefit retirement system or plan or within one year  
39 after the effective date of this act, whichever is later.

40 Sec. 3. Emergency

41 This act is an emergency measure that is necessary to preserve the  
42 public peace, health or safety and is operative immediately as provided by  
43 law.